

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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OORAH, INC.

**ORDER**  
09 CV 0353

Plaintiff,  
-against-

MARVIN SCHICK, THE JEWISH  
FOUNDATION SCHOOL and THE RABBI  
JACOB JOSEPH SCHOOL,

Defendants.  
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DEARIE, Chief Judge.

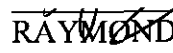
I referred the parties' respective motions for summary judgment to the Honorable James Orenstein, United States Magistrate Judge, for report and recommendation. Judge Orenstein recommends that I: dismiss all of plaintiff Oorah Inc.'s ("Oorah") affirmative claims, including its claim that defendants Marvin Schick, The Jewish Foundation School and The Rabbi Jacob Joseph School (collectively, the "School") breached a purported non-disparagement agreement; grant partial summary judgment as to liability in favor of the School on its counterclaim claim that Oorah breached the parties' tuition agreement; dismiss the School's remaining claims of quantum meruit and unjust enrichment on the ground that they are barred by the meritorious contract claim; and proceed to a trial limited to the issue of damages on the School's counterclaim.

I have reviewed the parties' briefs, the evidentiary record, Judge Orenstein's report and recommendations and Oorah's objections to Judge Orenstein's report and recommendations. I conclude that genuine issues of material fact exist that warrant the denial of summary judgment in the School's favor on Oorah's breach of contract claim. I also conclude that genuine issues of material fact exist that warrant the denial of summary judgment as to liability in favor of the

School on its counterclaim for breach of contract. The parties are directed to appear before me on April 13, 2011 at 3 PM for a pre-trial conference.

SO ORDERED

Dated: Brooklyn, New York  
March 31, 2011

s/ Judge Raymond J. Dearie  
  
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RAYMOND J. DEARIE  
United States District Judge